STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of W.R.A., II, Minor.

PEOPLE OF THE STATE OF MICHIGAN,

Petitioner-Appellee,

v

W.R.A., II,

Respondent-Appellant.

UNPUBLISHED
September 13, 2002

No. 237100
Leelanau Circuit Court
Family Division
LC No. 01-005504-DL

Before: Whitbeck, C.J., and Bandstra and Talbot, JJ.

PER CURIAM.

Following a jury trial, respondent, a juvenile, was adjudicated guilty of first-degree criminal sexual conduct, MCL 750.520b(1)(a). He was sentenced to an indeterminate term of juvenile probation. He appeals as of right. We affirm.

Respondent first argues that the trial court erred in admitting statements made by the eight-year-old complainant to an examining physician during a physical examination. We disagree.

The decision whether to admit evidence is within the discretion of the trial court and will not be disturbed on appeal absent a clear abuse of discretion. *People v Starr*, 457 Mich 490, 494; 577 NW2d 673 (1998). An abuse of discretion exists only if an unprejudiced person, considering the facts on which the trial court acted, would say there was no justification or excuse for the ruling made. *People v Snider*, 239 Mich App 393, 419; 608 NW2d 502 (2000).

Under MRE 803(4), a statement that otherwise constitutes hearsay is admissible if it is reasonably necessary for the purpose of medical treatment or diagnosis, and describes a person's medical history, past or present symptoms, pain or sensations, or the inception or general character of the cause or external source of the injury. In *People v Meeboer (After Remand)*, 439 Mich 310, 322-330; 484 NW2d 621 (1992), our Supreme Court held that a hearsay statement in which a sexual assault victim identifies her assailant to a doctor is admissible if the statement is reasonably necessary for the purpose of medical diagnosis or treatment. In a situation involving a child victim, however, certain "reliability factors" must also be analyzed to determine if the

child, while making the statements in question, understood the need to tell the truth in order to receive proper medical treatment. *Id*. at 322-326.

In the instant case, the examining physician testified that her questions, and the responsive statements given by the complaint, concerned the nature and extent of sexual contact and were necessary to enable her to discover possible physical damage that might have occurred, to diagnose the likelihood of sexually transmitted diseases, and to determine whether it was necessary to swab the child's private areas to check for contagious diseases, a procedure she would not perform unless necessary. The trial court did not abuse its discretion in finding that the statements were made in connection with medical diagnosis and treatment.

Additionally, an evaluation and balancing of the factors set forth in *Meeboer* reveals that the complainant's statements were sufficiently reliable. As the trial court observed, the statements were made during a physical rather than psychological examination, the manner of questioning was designed so as not to be suggestive, and the terminology used was not inappropriate considering the complainant's age. Also, although the examination was suggested by the investigating police officer after questioning respondent, it was not initiated by the prosecution. Indeed, the prosecutor was unaware that an examination had taken place until the week before trial. We also note that the terminology used by the complainant was consistent with her testimony at trial and reflects an age appropriate understanding of what occurred. Additionally, respondent's identity was well known to the complainant and her identification of him as the person who touched her was not seriously contested. Finally, there is no indication that the complainant had a motive to fabricate the statements. Accordingly, the trial court did not abuse its discretion in admitting the statements at trial.

Respondent next argues that the trial court erred in denying his motion to suppress his inculpatory statements to a police officer, which were made during questioning in the principal's office at respondent's school. Respondent contends that the statements should have been suppressed because they were not made voluntarily. We disagree.

Whether a defendant's confession was given voluntarily is a question of law for the court. *People v Etheridge*, 196 Mich App 43, 57; 492 NW2d 490 (1992). While affording great deference to a trial court's factual determinations at the suppression hearing, this Court conducts an independent review of the record to determine whether a defendant's confession was voluntary. *In re SLL*, 246 Mich App 204, 208; 631 NW2d 775 (2001). This Court will not disturb the trial court's finding regarding voluntariness unless it is clearly erroneous. *People v Sexton*, 458 Mich 43, 68; 580 NW2d 404 (1998).

Respondent's primary point of contention is that the investigating police officer did not inform respondent's father of the nature of the allegations against him before obtaining permission to speak with respondent. According to the officer, however, he was not aware that the alleged sexual conduct involved penetration until respondent volunteered that information during questioning. Affording deference to the trial court's superior ability to evaluate the credibility of the witnesses, we find no clear error in the trial court's determination that the officer did not intentionally mislead respondent's father. Further, a review of the remaining factors applicable to a determination of voluntariness, see *People v Givans*, 227 Mich App 113,

121; 575 NW2d 84 (1997) and *People v Good*, 186 Mich App 180, 189; 463 NW2d 213 (1990), leads to the conclusion that respondent's statements were voluntarily made.[1]

Respondent also argues that his confessions were admitted in violation of the corpus delicti rule. Again, we disagree. The complainant's testimony was sufficient to establish a specific injury caused by a criminal agency. *People v Konrad*, 449 Mich 263, 269-270; 536 NW2d 517 (1995); *People v Cotton*, 191 Mich App 377, 389; 478 NW2d 681 (1991). This threshold showing having been made, respondent's confession properly could be used to elevate the crime to one of a higher degree or establish aggravating circumstances. See, e.g., *People v Williams*, 422 Mich 381, 392; 373 NW2d 567 (1985); *Cotton, supra*.

Finally, respondent argues that reversal is required because defense counsel was ineffective. Respondent's presentation of this issue is limited to mere assertions of error. Apart from discussing general standards applicable to a review of ineffective assistance of counsel claims, respondent does not cite any authority in support of his individual claims of error, and further, provides no supporting argument or factual discussion of the individual claims. Under the circumstances, we conclude that this issue has been abandoned. *People v Watson*, 245 Mich App 572, 587; 629 NW2d 411 (2001).

We affirm.

/s/ William C. Whitbeck
/s/ Richard A. Bandstra
/s/ Michael J. Talbot

---

[1] Although respondent did not receive the warnings prescribed in *Miranda v Arizona*, 384 US 436, 86 S Ct 1602; 16 L Ed 2d 694 (1966), he does not argue that he was in custody at the time of the questioning, nor does the record reflect that the questioning took place as part of a custodial interrogation. Under the circumstances, therefore, the absence of *Miranda* warnings does not weigh in favor of suppression. See *People v Hill*, 429 Mich 382, 384; 415 NW2d 193 (1987), and *People v Kulpinski*, 243 Mich App 8, 25; 620 NW2d 537 (2000).